IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTEENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 15988 of 2004

Between:

1 Sunil Bhagwath, S/o. Late B. Shyam Rao,
aged about 36 years, R/o. 8-15-25,
S.P. Colony, Post Kattedan, Ranga Reddy.
2 Madhusudan Trivedi, S/o. Puroshotham Trivedi,
R/o. 15-7-57/1/8, Begum Bazar, Hyderabad.

..... PETITIONERS

AND

1 The State of Andhra Pradesh, rep by its Principal Secretary,
Endowments Department, Secretariat Buildings, Hyderabad.
2 The Commissioner of Endowments, Government of Andhra Pradesh,
Tilak Road, Hyderabad.
3 The Executive Officer, Sri Gnana Saraswathi Temple, Basar, Mudhole
Mandal, Adilabad District.
4 V. Praveen, S/o. Vittal, R/o. Basar Village, Mudhole Mandal,
Adilabad District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, order or direction, more particularly one in the nature of Mandamus, declaring the action of third respondent herein, in calling for Tenders in Tender notice in Rc.No. G4/255/2004,
dt.26-7-2004, for collection of 'Sarees' offered by the devotees of Goddess Saraswathi Temple, Basar, for a period of one year and finalizing the same in favour of the fourth respondent herein, being illegal, unreasonable and against the

traditions and custom of the temple, and consequently direct the respondents 1 to 3 not to conduct auctions by way of tenders, in respect of shops, shoe-keeping, parking-lot, Tenkaya collections and Saree collections, by restoring the previous practice of managing by the third respondent temple itself and also direct the respondents 1 to 3 herein to strictly enforce Sections 57 and 58 of the Act. 30 of 1987 and the guidelines issued in G.O.Ms. No. 567 Revenue (Endowments-I) Department, dt.16-6-1990 (Convening of a Meeting of Devotees, Persons having interest and Beneficiaries Rules, 1990).

Counsel for the Petitioners: SMT.N.SHOBA

Counsel for the Respondent Nos.1 and 2: GP FOR ENDOWMENTS

Counsel for the Respondent No.3 : SMT. D.PRAMADA

The Court made the following :

O R D E R: (Per Hon'ble Sri Justice B.Sudershan Reddy)

This Writ Petition is purported to have been filed in public interest with a prayer to issue a Writ of *Mandamus* declaring the action of the third respondent herein in calling for Tenders in Tender notice Rc.No.G4/255/2004, dt.26.07.2004 for collection of 'Sarees' offered by the devotees of Goddess Saraswathi Temple, Basar for a period of one year and finalizing the same in favour of the fourth respondent herein, as illegal, unreasonable and against the traditions and customs of the temple. The petitioners accordingly pray for issuance of consequential directions, directing the respondents 1 to 3 not to conduct auctions by way of tenders in respect of shops, shoe-keeping, parking-lot, tenkaya collections and Saree collections, by

restoring the previous practice of managing the above by the third respondent temple itself.

We have heard the learned counsel for the petitioners and the learned Government Pleader appearing on behalf of the respondent-temple.

Though in the writ petition, the petitioners prayed for the relief not to conduct the auction by way of tenders in respect of shops, shoe keeping, parking lot, tenkaya collections and saree collections, but the petitioners concentrated only on the auction of saree collections.

In the affidavit filed in support of the writ petition, it is *inter alia* stated that respondents 2 and 3 for the first time, in order to commercialize the 'Saree' offerings, called for tenders for a period of one year. It is also stated that the amount of revenue towards saree offerings would have been much higher, had the third respondent itself conducted the auction of sarees by fixing upset price keeping in view all the approximate cost of sarees. It is also alleged that the third respondent incurred huge losses on account of auctioning shops, shoe-keeping space etc. The proposed auction, according to the petitioners, is not in the interest of the temple. It was also contended that the action of respondents 2 and 3 in calling for the tenders for collection of the sarees offered to Goddess Saraswathi by the devotees on lump sum tender basis is unjust, unreasonable and amounts to commercialization of the saree offerings.

A detailed counter affidavit has been filed by the Executive Officer of the temple, in which it is *inter alia* stated that in the recent past number of devotees have substantially increased and offerings are also coming in plenty. Conducting auction every week or very often as has been the practice, has become an unmanageable

affair for the temple management. On inspection, it was found that some fraud was being played by the temple employees while collecting the sarees. It was found that receipts were not being issued for most of the sarees and accounted. It was found that the employees were misappropriating the sarees by showing only 25-30% out of the total number of sarees received and the same was highly detrimental to the interest of the temple. The decision to auction the lease hold rights to auction the sarees by way of calling for tenders for a period of one year has been taken to protect the interest of the temple. The tender was duly published in the news papers on 28.07.2004 giving state wide publicity. In the tender notice itself it was notified that the EMD amount is fixed at Rs.50,000/- to be deposited with the Executive Officer. It is stated that altogether 11 persons participated and the offer of the fourth respondent, being highest for a sum of Rs.12,60,000/-, was accepted and the fourth respondent immediately deposited 1/3rd of the bid amount. The auctions were finalized and approved on 15.08.2004. The Second respondent approved the auction on 30.08.2004 which was received in the office of the first respondent on 01.09.2004.

We are convinced that the new procedure has been adopted by the temple authorities only to safeguard the interest of the temple to avoid fraud and mischief noticed during sudden inspection. A specific instance that occurred on 02.07.2004 is mentioned, whereunder out of 17 sarees that were collected, only 4 sarees were shown in to the temple account.

In the circumstances, the decision of the respondents to auction the leasehold rights, in our considered opinion, does not suffer from any legal infirmities. The policy decision taken by the respondents to henceforth call for the tenders, in no manner adversely affects the public interest or the interest of the temple. In fact, it protects the revenue of the temple. It is a device adopted by the respondents for augmenting the

resources of the temple.

For the aforesaid reasons we find no merit in the Writ Petition and the same shall accordingly stand dismissed without any order as to costs.

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B.SUDERSHAN REDDY, J.

Dated : 14.10.2004.

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K.C.BHANU, J.

GS/MSV

To

1. The Principal Secretary, State of Andhra Pradesh,
   Endowments Department, Secretariat Buildings, Hyderabad.
2 The Commissioner of Endowments, Government of Andhra Pradesh,
Tilak Road, Hyderabad.
3 The Executive Officer, Sri Gnana Saraswathi Temple, Basar,
Mudhole Mandal, Adilabad District.

4. 2CCs to G.P. for Endowments, High Court of A.P. Hyderabad(OUT)

5. 2CD copies